

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MARIA DEL TORO-CHACON,

Petitioner,

v.

MICHAEL CHERTOFF, *et al.*,

Respondents.

CASE NO. C05-1861RSL

ORDER OF DISMISSAL

The Court, having reviewed the Report and Recommendation of the Honorable Monica J. Benton, United States Magistrate Judge, petitioner's objections, and the remainder of the record, finds and ORDERS as follows:

(1) The Court adopts the Report and Recommendation.

(2) Given the specific facts of this case, the Court finds petitioner is not being indefinitely detained under Zadvydas v. Davis, 533 U.S. 678 (2001), or unreasonably imprisoned under Tijani v. Willis, 430 F.3d 1241 (9th Cir. 2005). Even if the Court were to conclude that petitioner's twenty-nine month detention during the pendency of her appeals is unreasonable, the Court has already ordered the remedy to which she would be entitled, namely a bail hearing before an Immigration Judge with the power to grant bail unless the government establishes that petitioner is a flight risk or a danger to the community. The bail hearing conducted on May 15, 2006, provided all the process to which petitioner was entitled.

(3) Petitioner's § 2241 petition (Dkt. #1) is DENIED, petitioner's cross-motion to set bond (Dkt. #34) is DENIED, respondents' motion to dismiss (Dkt. #27) is

1 GRANTED, and this action is DISMISSED with prejudice.

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3 Dated this 10th day of March, 2008.

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5 Robert S. Lasnik
6 United States District Judge
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